



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0053]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on June 24, 2020, Berkshire Scenic Railway Museum (BCRY) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240, Qualifications and Certification of Locomotive Engineers. FRA assigned the petition Docket Number FRA-2020-0053.

Specifically, BCRY seeks a waiver from the requirements of 49 CFR 240.201(d), *Implementation*, which states that a railroad can only permit qualified locomotive engineers to operate locomotives. BCRY seeks to operate a “hand on the throttle” charter program and offer non-certified individuals the opportunity to operate a diesel-electric locomotive under the direct supervision of a certified and qualified locomotive engineer. BCRY states the waiver would affect only persons who participate in the program and restrictions would be placed on this operation.

The waiver would cover operations on a 2-mile segment of other-than-main track between mile post (MP) 0.0 and MP 2.0. There are no public grade crossings or otherwise hazardous or unusual conditions on this segment of track.

Through a license agreement with the Massachusetts Department of Transportation (Mass DOT), BCRY utilizes 5 miles of the Adams Industrial Track to provide tourist service on weekends. BCRY's tourist operations on this track are at restricted speed, at a maximum of 15 miles per hour. Mass DOT also has a license agreement with Pan Am Railways (PAR) on this same track segment. PAR only operates on the Adam Industrial lead on Tuesday and Thursday between 0700 and 1700. BCRY must always coordinate with the PAR dispatcher and obtain permission prior to occupying the track between MP. 0.0 and MP 5.0 to ensure there are no PAR trains on this track segment.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave., SE, Room W12-140, Washington, DC

20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.